

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

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NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

18.03.2004

Applicant's or agent's file reference

IP/P7069WOD

IMPORTANT NOTIFICATION

International application No.

PCT/GB 03/01776

International filing date (day/month/year)

25.04.2003

Priority date (day/month/year)

08.05.2002

Applicant

QINETIQ LIMITED et Al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.

2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.

3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the International
preliminary examining authority:



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19 OCT 2004

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 18 MAR 2004



WIPO PCT

Applicant's or agent's file reference IP/P7069/WOD		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/01776	International filing date (day/month/year) 25.04.2003	Priority date (day/month/year) 08.05.2002	
International Patent Classification (IPC) or both national classification and IPC A62B18/04			
Applicant QINETIQ LIMITED et Al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
 - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 03.11.2003	Date of completion of this report 18.03.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer van Bilderbeek, H. Telephone No. +31 70 340-3657 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/01776

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-5 as originally filed

Claims, Numbers

1-7 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-7
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-7
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB03/01776

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1:US-B1-6 328 031 (AUSTIN RICK ALLEN ET AL) 11 December 2001 (2001-12-11)

D2:US-A-5 245 993 (MCGRADY MICHAEL B ET AL) 21 September 1993 (1993-09-21)

D3:US-A-6 161 538 (URGEL JEAN-CLAUDE ET AL) 19 December 2000 (2000-12-19)

D4:US-A-2 935 985 (ANDREWS FREDERICK W ET AL) 10 May 1960 (1960-05-10)

Document D1, which is considered to represent the most relevant state of the art, discloses (the references in parentheses applying to this document): a respirator assembly (see fig. 1) comprising a first sub-assembly (24) adapted to be worn on the head; and a second sub-assembly (26) separable from the first sub-assembly but selectively co-operable therewith, the second sub-assembly comprising a face piece (54) adapted to co-operate with the sub-assembly (see fig. 12) to define therewith a facial cavity (56) bounded by sealing means mounted to the face mask (26), inlet means connectable to a source of breathing gas for supply to the user and outlet means for the exhaustion of exhaled gas from the user, from which the subject-matter of independent claim 1 differs in that the sealing means are included in the first sub-assembly.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).

Claims 2-7 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty.

The problem to be solved by the present invention may be regarded as providing an alternative location for the sealing means.

Although the now available prior-art does not explicitly disclose sealing means comprised within the first assembly, the choice of incorporating said means within said first assembly appears to be obvious for the skilled person.

The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT). Dependent claims 2-7 are also not considered to be inventive (Article 33(3) PCT). The features of claim 2-6 are known

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EXAMINATION REPORT - SEPARATE SHEET

from document D1, the feature of claim 7 is known from document D2.
